

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

JULIO PEREZ, JR., #852734,

Plaintiff,

v.

TDCJ MICHAEL UNIT, et al.,

Defendants.

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Case No. 6:20-cv-656-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Julio Perez, Jr., a prisoner within the Texas Department of Criminal Justice, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge John Love, for findings of fact, conclusions of law, and recommendations for disposition.


On December 29, 2020, Judge Love issued a Report and Recommendation in this case. Docket No. 5. In that Report, Judge Love found that Plaintiff accumulated at least three strikes prior to filing this lawsuit pursuant to 28 U.S.C. § 1915(g). Accordingly, the Report recommended that Plaintiff's motion to proceed *in forma pauperis* be denied and that the case be dismissed with prejudice for the purpose of proceeding *in forma pauperis*. Judge Love further recommended that the case should proceed if Plaintiff paid the full filing fee within fifteen days of the dismissal order. Plaintiff filed objections on February 1, 2021. Docket No. 10.

Where a party timely objects to the Report and Recommendation, this Court

reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Having conducted a de novo review of Plaintiff's objections, the Magistrate Judge's Report, and the record in this case, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 5) as the opinion of the District Court. The Court **DENIES** Plaintiff's motion to proceed *in forma pauperis*, and **DISMISSES** Plaintiff's claims with prejudice for purposes of proceeding *in forma pauperis* under 28 U.S.C. § 1915(g), but without prejudice as to the refile of his lawsuit without seeking *in forma pauperis* status. Finally, if Plaintiff pays the requisite \$400 filing fee within fifteen days of this Order, the lawsuit shall proceed as though the full filing fee had been paid from the outset.

So **ORDERED** and **SIGNED** this **10th** day of **February, 2021**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE